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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/477,042	12/31/1999	HENRY JOHN HUMMEL JR.	15-SV-5359	8637
44702 7590 09/11/2006 OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			EXAMINER MANNING, JOHN	
			ART UNIT	PAPER NUMBER
			2623	
DATE MAILED: 09/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/477,042		HUMMEL JR. ET AL.	
	Examiner		Art Unit	
	John Manning		2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 29-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/15/06 have been fully considered but they are not persuasive.

Applicant argues, "Ramshaw is silent concerning videos for training in how to operate a medical diagnostic imaging system, how to perform an examination using such equipment, or how to make a diagnosis during such an examination. Nor do Levy or Sawa disclose these limitations." The limitation argues by applicant is specifically "...each training video showing one or more of the following: *how to operate a medical diagnostic imaging system of said respective imaging modality, how to perform an examination of a particular exam type on a patient using a medical diagnostic imaging system of said respective imaging modality or how to make a diagnosis during an examination of said particular exam type performed using a medical diagnostic imaging system of said respective imaging modality*". The claimed "each training video" is written in the alternative, such that the limitation may be satisfied by either "how to operate a medical diagnostic imaging system of said respective imaging modality", "how to perform an examination of a particular exam type on a patient using a medical diagnostic imaging system of said respective imaging modality" or "how to make a diagnosis during an examination of said particular exam type performed using a medical diagnostic imaging system of said respective imaging modality." Ramshaw discloses a training video "how to perform an examination of a particular exam type on a patient using a medical diagnostic imaging system of said respective imaging modality" (See

Col 3 Lines 6-8; Also see Col 3, Line 9 – Col 4, Line 12). The user views training videos with respect to laparoscopic surgical procedure. The user is prompted for information on the simulated patient, such as the next medical instrument to be used in the procedure or the size and/or location of a surgical incision to be made.

Applicant argues, "...each of claims 29, 30 and 33 recites that, in substance, that both the training video and a diagnostic image of a portion of the anatomy of a patient acquired during an examination are viewed on the same display monitor." Figures 7A and 7B. Ramshaw discloses a cross-sectional side view of a tissue area that is to be operated upon which is a portion of the anatomy of a patient. "As illustrated in FIG. 7A, the perform surgery option preferably operates to present two windows onto the video display 50. A first window or a video window 85, like the video window 70 described in FIG. 4A, presents a video segment of a particular medical or surgical procedure. A control panel 86, like that described in FIG. 4A, is provided to control the display of the video within window 85. In connection with video window 85, an image window 87 provides a second graphical presentation of the surgical procedure. In the preferred embodiment, the image window 87 provides a graphic illustration of a cross-sectional side view of a tissue area that is to be operated upon. For example, as illustrated in FIG. 7B, while the video window 85 illustrates a vertical incision being made using a scalpel, the image window 87 may (by showing a cross-sectional view) illustrate the depth at which the incision should be made, using the scalpel" (Ramshaw; Col 11, Lines 10-29).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Levy discloses an audio-visual telecommunications system, which is operable to provide training. One of ordinary skill in the art would have recognized the advantage of displaying surgical training videos of Ramshaw in combination with Levy. It is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,449,001 to Levy et al. in view of U.S. Patent No. 5,791,907 to Ramshaw et al. and further in view of U.S. Patent No. 6,477,708 to Sawa.

Regarding Claim 29, Levy discloses a method for video conferencing including a central service facility connected to any number of remote sites via a network (See Figure 1). Furthermore the system of Levy is based on a personal computer (Col. 5, Lines 11-45) and is used in conjunction with various medical diagnostic imaging devices (Col. 2, Lines 9-14) for the purpose of, among other things, technical and technique monitoring and training (Col. 6, Lines 54-67). Further, Levy discloses that the invention may be a direct link between the medical apparatus and the portable computer at the remote site (Col. 4, Lines 54-57). This direct connection between the computer and the imaging device reads on the claimed provision of software on medical diagnostic imaging systems as it is well known in the art that a single computer device may replicate the functionality of two or more interconnected computer devices that share data via a communication path. The video is displayed on the PC, which is part of the imaging system. Levy does not, however, disclose a method by which a specific training video is selected, requested, and transmitted from the central service facility to the medical diagnostic imaging system.

Ramshaw discloses an interactive medical training device based on a personal computer system with a display and a speaker wherein the user can select and receive high resolution video displays with prerecorded video segments and photographic images (Col. 7, Lines 33-41) from a local source (Col. 6, Lines 23-25) or a remote server over a network (Col. 7, Lines 1-7). It is well understood in the art that in such a client-server relationship (See Figure 1B

and Col. 8, Lines 21-32), when the client makes a request for content of the server, the server retrieves the data from its storage device and sends the data across the network to the client. The client, upon receipt of the data, in this case a video segment, plays back the data in a video window as shown in Figure 4A. Ramshaw discloses a first graphical user interface (Figures 3A-3B, Items 51-56) with buttons for navigating to a second graphical user interface. The second graphical user interface has buttons for navigating to a plurality of training videos (Figure 4A-11, play button 71 and GO TO button). Ramshaw discloses the use of a video segment for training with respect to a medical procedure. It is implied that the person trained in the procedure would perform the procedure after the training, not before it. Ramshaw is evidence that ordinary workers in the art would recognize the benefits of computer-based video training in a medical environment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made would include the client/server video-on-demand training system of Ramshaw with the medical diagnostic imaging system teleconferencing training system of Levy in order to facilitate "off-line" distance learning to a plurality of users at a lower cost and higher availability than that of live instructor training. This reads on the claimed selecting a training video via an operator input to the medical diagnostic imaging system, sending a request from the system to the central service facility via the network where the video request comprises an identifier identifying the selected training video. What Levy in view of Ramshaw do not disclose, however, is a source system identifier in the video

request identifying the medical diagnostic imaging system and the central service facility, in response to receipt of the request and identifier, verifying whether the medical system identified has a valid subscription and declining to retrieve data if the system identified by the identifier does not have a valid subscription.

Sawa discloses a bi-directional communication system using a client-server model whereby video information is transmitted over a network to a plurality of client terminals from a centralized server. Sawa further discloses that a "service request" is made that includes identification data (Col. 4, Lines 25-40). It is inherent that in order for the client to send such identification data in the service request that it must be stored in memory. This clearly reads on the claimed video request (service request) identifying a source system identifier (identification data) identifying the client. Upon authentication of the client's identification data from the service request, the server will accept or not accept entry of the client (Col. 4, Lines 40-45). Only if the requesting client is authenticated will the video data server deliver video data to the client (Col. 3, Lines 54-58). This clearly reads on the claimed in response to receipt of request and identifier at the central service facility, verifying whether the client (in this case, the medical diagnostic system) identified by the identifier has a valid subscription and declining to retrieve data if there is no valid subscription. Sawa is evidence that ordinary workers in the art would appreciate the ability to authenticate users in a networked video transmission system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention

was made to use the authentication server of Sawa with the medical diagnostic imaging video training system of Levy in view of Ramshaw in order to prevent unauthorized access to sensitive or copyrighted media content. The aforementioned combined teaching fails to disclose that the disclosed graphical user interfaces are implemented as web pages. The Examiner takes Official Notice that it is notoriously well known in the art to implement graphical user interfaces as web pages so as to take advantage of the ease of design, updating and customizability of the web pages. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement graphical user interfaces as web pages with the medical diagnostic imaging video training system of the aforementioned combined teaching in order to take advantage of the ease of design, updating and customizability of the web pages.

Regarding Claim 30, see Claim 1 above. Ramshaw discloses a plurality of clients (See Figure 1B). This reads on the claimed multiplicity of remote systems. Ramshaw further discloses an interactive medial training system that utilizes a graphical user interface for selecting a training video (See Figures 3A and 7A).

Regarding Claim 31, Levy in view of Ramshaw and further in view of Sawa disclose a system as stated above in Claim 30. Ramshaw further discloses an interactive medical training device as stated above based on a personal computer system with a display and a speaker wherein the user can select, receive and play back high resolution video displays with prerecorded video

segments and photographic images (Col. 7, Lines 33-41) from a local source (Col. 6, Lines 23-25) or a remote server over a network (Col. 7, Lines 1-7). The system of Ramshaw discloses a video/audio player for displaying the video data on the display screen (See Figure 4A) and audio to the user (Col. 6, Lines 13-14).

Regarding Claim 32, Levy in view of Ramshaw and further in view of Sawa disclose a system as stated above in Claim 5. Sawa further discloses a bi-directional communication system using a client-server model whereby video information is transmitted over a network to a plurality of client terminals from a centralized server. A dedicated authentication server (See Figure 1, Client Management Server 4) validates an authentication request message (Col. 4, Lines 25-40) sent via the network in the client's service request message. If a client is accepted, a message is sent to the video server (application server) indicating that the client has a valid subscription (Col. 7, Lines 13-22). What is not disclosed, however, is that the application server coupled to the license server is programmed to decline the video request if the license server communicates that the client identified by the identifier does not have a valid subscription. Official Notice is hereby taken that it is well known in the art that a server may deny a client access based on an access server indicating that the client does not have a valid subscription. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Levy in view of Ramshaw and further in view of Sawa with

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the license server communicating to the application server when a client does not have a valid subscription of the well-known prior art such that the video server (application server) may transmit subscription information or preview data to potential subscriber who is not yet registered.

Regarding Claim 33, see Claim 30 above.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM
September 5, 2006



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